



HF 299 – Public Utility Property, Trespassing (LSB 2001HV)

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Fiscal Note Version – New

Requested by Representative Kurt Swaim

Description

House File 299 provides an option for local ordinances regarding copper theft. This Bill also amends the definition of trespassing to include public utility property and provides for a Class D felony for that specific crime.

Background

Correctional and Fiscal Information

- The correctional impact permitting local copper theft ordinances cannot be determined due to a lack of data. It is not known how many local governments will implement such an ordinance.
- It is unclear what the criminal penalty may be under these ordinances. The penalty may be more or less severe than a scheduled violation.
- Under House File 299, salvage dealers are required to keep certain records. Failure to maintain those records may result in suspension or revocation of a license or permit. The Bill provides for a judicial hearing related to the suspension, revocation, or the denial of a permit.
- The average cost for a judicial proceeding is \$27 depending on whether a magistrate or district associate judge hears the case. It is not known how many cases regarding local ordinances will be heard.
- In FY 2010, there were 2,147 offenders convicted of simple misdemeanor trespass and 100 convicted of serious misdemeanor trespass. Under House File 299, a percentage of these convictions will become Class D felonies.
- Offenders convicted of a simple misdemeanor are not supervised in the correction system. They usually receive a fine, community service, or a combination of the two.
- Offenders convicted of a serious misdemeanor are required to pay a fine of at least \$315 but no more than \$1,875. The judge may impose imprisonment not to exceed one year. Sentences of one year or less are served in county jails.
- Offenders convicted of a Class D felony are required to pay a fine of at least \$750 but no more than \$7,500. The judge may impose imprisonment not to exceed five years. These sentences are served in State prisons.
- The average length of stay in prison for a serious misdemeanor is 6.4 months. The marginal cost per day is \$16.75. The average length of stay on parole for a serious misdemeanor is 5.3 months.
- The average length of stay on probation for a serious misdemeanor is 10.8 months. The average daily cost for parole or probation is \$3.24.
- The average length of stay in prison for a Class D felony is 14.6 months. The incarceration rate for a Class D felony is 28.5% for property offenses.
- The average length of stay on parole upon release from prison is 12.8 months.

- The average length of stay on probation for a Class D felony is 32.3 months.

Minority Data Information: Based on FY 2010 data where race is known, approximately 67.8% of convicted offenders were Caucasian, 21.7% were African-American, and 10.7% were other minorities.

Assumptions

- Charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, and other correctional policies and practices will not change over the projection period.
- The law will become effective July 1, 2011. A lag effect of six months is assumed from the effective date to the date of first entry of the affected offenders into the correctional system.
- The fiscal impact of local copper theft ordinances cannot be estimated, but is assumed to be minimal.
- Broadening the definition of trespass and enhancing the penalty for that trespass may increase the number of Class D felony convictions and decrease the number simple and serious misdemeanor convictions.

Minority Data Information: Approximately 14.0% of Iowa's population has at least one disability. The number of disabled offenders convicted under this Bill may be 14.0%.

Summary of Impacts

Correctional Impact

It is not possible to predict the number of Class D felony convictions that will occur under the provisions of the Bill. However, to the extent that convictions do occur there will be a correctional impact due to the significant increase in the average length of stay in the corrections system.

Minority Impact

To the extent the Bill shifts simple and serious misdemeanor convictions to Class D felony convictions, there will be an increase in the length of stay of minority offenders in the corrections system.

Fiscal Impact

The average State cost for one simple misdemeanor conviction ranges from \$27 (court costs) to \$327 (court costs and indigent defense).

The average State cost for one serious misdemeanor conviction ranges from \$201 (court costs) to \$5,300 (court costs including a jury, indigent defense, prison, and parole). The maximum costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.

The average State cost for one Class D felony conviction ranges from \$4,750 (court costs, indigent defense, and probation) to \$12,300 (court costs with a jury, indigent defense, prison, and parole). Costs will be incurred across multiple fiscal years while the offender is supervised in the correctional system, either in prison or the community.

The number convictions cannot be estimated under the Bill; therefore the fiscal impact is unknown. To the extent convictions do occur, State General Fund costs will increase.

Sources

Department of Corrections
Department of Human Rights, Criminal and Juvenile Justice Planning Division
Judicial Branch
Office of the State Public Defender
Iowa Utilities Board

/s/ Holly M. Lyons

February 23, 2011

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the correctional and minority impact statements were prepared pursuant to [Section 2.56, Code of Iowa](#). Data used in developing this fiscal note, including correctional and minority impact information, is available from the Fiscal Services Division of the Legislative Services Agency upon request.
